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14 Variscite, Inc. and Kenneth Gay

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 VARISCITE, INC. AND KENNETH
18 GAY,

19 Plaintiffs,

20 v.

21 CITY OF LOS ANGELES; LOS
22 ANGELES DEPARTMENT OF
23 CANNABIS REGULATION; AND
24 MICHELLE GARAKIAN,

25 Defendants.

Case No. 2:22-cv-08685-SPG-SK

Hon. Sherilyn Peace Garnett

**PLAINTIFFS' BRIEF IN
RESPONSE TO COURT ORDER
[DKT. #59]**

1 Based on the litigation in this case to date, Plaintiffs anticipate that the Court
2 will stay the case pending the resolution of the appeal in *Peridot Tree WA, Inc. v.*
3 *Washington State Liquor and Cannabis Control Board*, et al. 24-3481 (9th Cir.).

4 As this case has been pending for nearly two years, and Defendants have
5 argued the requirements of a California Cannabis Arrest or Conviction and of
6 residence in a Disproportionately Impacted Area do not violate the dormant
7 Commerce Clause, Plaintiffs would prefer to begin discovery on the disparate
8 impact of those requirements on out-of-state applicants.

9 Nevertheless, anticipating that the Court will stay this action, Plaintiffs ask
10 that if the Ninth Circuit holds that the dormant Commerce Clause does not apply to
11 cannabis licenses, the Court maintain the stay until the certiorari process has ended
12 to avoid a potentially unnecessary appeal of this case to the Ninth Circuit.

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14 DATED: September 25, 2024 JEFFREY M. JENSEN, PC

15
16 By: /s/ Jeffrey M. Jensen
17 Jeffrey M. Jensen
18 Attorney for plaintiffs Variscite, Inc. and
19 Kenneth Gay

20 DATED: September 25, 2024 KERNKAMP LAW APC

21
22 By: /s/ Christian Kernkamp
23 Christian Kernkamp
24 Attorney for plaintiff Variscite, Inc. and
25 Kenneth Gay
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